

**DURHAM, NORTH CAROLINA
MONDAY, MAY 19, 2003
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Absent: None.

Also present: City Manager Marcia L. Conner, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with the Pledge of Allegiance.

Council Member Clement read a Resolution Memorializing William Kimball Griffin, Sr. and the Mayor read a proclamation declaring the week of May 18, 2003 as *National Public Works Week*.

Council Member Clement made comments about his participation at the North Carolina Neighbors Conference held May 9-10, 2003 at the North Raleigh Hilton and thanked individuals responsible for hosting conference. Also, he announced that on May 16, 2003 the City of Durham was presented with the *2003 Golden Leaf Award* for the Durham Bulls Athletic Park in the category of Community Property.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Conner requested that the following items be added to the agenda: 1) Revised Motions to Condemn Property on Behalf of LH Boulevard, LLC; 2) Employment and Public Accommodations Ordinance; 3) Diamond View 1 Lease Amendment and the East Garage Parking Management Agreement; 4) Adjustment to General Obligation Refunding Bonds, Series 2003; and 5) Preliminary Budget FY 2003-2004.

**SUBJECT: EMPLOYMENT AND PUBLIC ACCOMMODATIONS
ORDINANCE - HUMAN RELATIONS DEPARTMENT**

To adopt An Ordinance Repealing Chapter 8.6 of the Durham City Code, Captioned "Employment and Public Accommodations.

MOTION by Council Member Cole-McFadden seconded by Council Member Clement to refer this item to the May 22, 2003 City Council Work Session was approved at 7:25 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent at time of Vote: Council Member Best.

May 19, 2003

SUBJECT: PRIORITY ITEMS – CITY MANAGER

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Clement to add the City Manager's priority items 1) Revised Motions to Condemn Property on Behalf of LH Boulevard, LLC; 2) Employment and Public Accommodations Ordinance; 3) Diamond View 1 Lease Amendment and the East Garage Parking Management Agreement; 4) Adjustment to General Obligation Refunding Bonds, Series 2003; and 5) Preliminary Budget FY 2003-2004-- to the agenda was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent at time of Vote: Council Member Best.

There were no priority items from the City Attorney.

City Clerk Gray informed Council that a valid protest petition has been filed against GBA #23 [Rezoning – Belvins Property Case P02-55].

[ITEMS ADDED TO THE AGENDA]

SUBJECT: PRELIMINARY BUDGET FY 2003-2004

City Manager Conner gave a power point presentation on the FY 2003-2004 preliminary budget totaling \$254.8 million highlighting the following: 1) No increase in taxes; 2) Total proposed budget by expenditure type; 3) General fund spending by function; 4) Revenue outlook; 5) Total revenues; 6) Increased police officer presence in neighborhoods; 7) Public safety departments strengthened; 8) Support for economic development revitalizing downtown and neighborhood issues; 9) Support for \$1 million for new technology; 10) Support for organizational efficiencies; 11) City employees--reduced level of longevity program, increased funds for health coverage, pay for performance raise; reduction in workforce by 41 positions; 12) Recommended funding for 23 non-city agencies; 13) Proposed fare increases and service reductions for DATA riders; 14) Increased water and sewer rates for residents and businesses; 15) Deferred major capital and infrastructure improvements [handout provided].

[Council Member Best arrived at 7:54 p.m.]

MOTION by Council Member Clement seconded by Council Member Edwards to receive the preliminary budget FY 2003-2004 presentation from the City Manager was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: REVISED MOTIONS TO CONDEMN PROPERTY ON BEHALF OF LH BOULEVARD, LLC – NEW HOPE CREEK PARTNERSHIP

May 19, 2003

**– BLACKWOOD HEIRS – WATKINS ROAD INVESTORS
GENERAL PARTNERSHIP**

Sandra Harper, of the Real Estate Division, made comments about the action taken by Council at its April 21, 2003 City Council Meeting concerning this item. Also, she outlined reasons for the revised motions noting it was discovered that additional right-of-way and easements would be needed for the condemnation.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to rescind Motions #1 and #2 [Item 32 on the GBA approved on April 21, 2003]; and

To find that it is necessary, in the public interest, and for the public use and benefit to condemn the following interests in the property identified as:

- a. Tax Map 474-01-006, also known as PIN#0800-03-32-5253, and owned by New Hope Creek Partnership (i) a fee simple in approximately 18,904 square feet; (ii) a permanent slope easement of approximately 8,749 square feet; (iii) a temporary construction easement of approximately 4,837 square feet;
- b. Tax Map 477-05-003; also known as PIN #0800-03-21-6997, and owned by the Blackwood Heirs: (i) a fee simple in approximately 15,969 square feet; (ii) a permanent slope easement of approximately 781 square feet; (iii) a temporary construction easement of approximately 1,969 square feet; and
- c. Tax Map 477-05-005, also known as Pin #0800-03-32-113, and owned by Watkins Road Investors General Partnership; (i) a fee simple in approximately 54,322 square feet; (ii) a permanent slope easement approximately 18,734 square feet; (iii) two temporary construction easements of approximately 5,230 square feet and approximately 5,787 square feet;

With the location of all the referenced parcels shown on Sheet 1 and 2 of the map entitled “Final Plat of Right-of-Way and Easement Dedication for Southwest Durham Parkway” prepared by Triangle Surveyors, Inc., map dated May 5, 2003; and

To authorize the selection of an attorney that is acceptable to LH Boulevard, LLC and the City to initiate condemnation proceedings for that purpose, with deposits into court in the following amounts \$60,600 for the interest in the property of New Hope Creek Partnership \$62,800 for the interest in the property of the Blackwood Heirs, and \$213,700 for the interest in the property of Watkins Road Investors General Partnership as the City’s estimate of just compensation; and

To authorize LH Boulevard, LLC to settle the condemnation action(s) by payment from its funds of whatever additional sum(s) that LH Boulevard, LLC finds to be satisfactory on terms and conditions acceptable to LH Boulevard, LLC and the City Manager in consultation with the City Attorney; provided all monies are paid by LH Boulevard, LLC; and

May 19, 2003

To authorize the City Manager to execute the Agreement between LH Boulevard, LLC and the City of Durham on Payment of Eminent Domain Expenses, and to make changes to such Agreement, provided such changes are consistent with the general intent of the agenda memo was approved at 8:04 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: DIAMOND VIEW I LEASE AMENDMENT AND THE EAST
GARAGE PARKING MANAGEMENT AGREEMENT**

To adopt a Resolution Approving the East Garage Parking Management Agreement and the Diamond View I Lease Amendment for the American Tobacco Project.

MOTION by Council Member Clement seconded by Council Member Cole-McFadden to refer this item to the May 22, 2003 City Council Work Session was approved at 8:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: ADJUSTMENT TO GENERAL OBLIGATION REFUNDING
BONDS, SERIES**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Council Member Clement to adopt a Resolution Authorizing A Further Adjustment in the Annual Principal Maturities of the City's General Obligation Refunding Bonds, Series 2003 was approved at 8:12 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Resolution # 9001

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Items 5 [Contracts], 20 [Subsidized Housing Location Policy] and 30 [Resolution Expressing the Support of the Durham City Council to the Crime Cabinet's Recommendation] were pulled from the Consent Agenda.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the Consent Agenda as amended was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

May 19, 2003

[CONSENT AGENDA]

**SUBJECT: PASSENGER VEHICLE FOR HIRE COMMISSION -
APPOINTMENTS**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to appoint the following citizens to the Passenger Vehicle for Hire Commission was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Barbara Payne – Term expiring January 1, 2006
Carl Snipes – Term expiring January 1, 2005

**SUBJECT: DURHAM BOARD OF ADJUSTMENT – RECEIPT AND
ACCEPTANCE OF APPLICATIONS**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive and accept applications for citizens to fill two (2) REGULAR MEMBER vacancies and one (1) ALTERNATE MEMBER vacancy - terms will expire June 30, 2006 was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: DURHAM PLANNING COMMISSION - RECEIPT AND
ACCEPTANCE OF AN APPLICATION**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive and accept an application to fill one (1) vacancy for District 4. The term will expire June 30, 2006 was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: HUMAN RELATIONS COMMISSION – APPOINTMENTS AND
RECEIPT AND ACCEPTANCE OF APPLICATIONS**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to reappoint Tracey Shea Quinones Hill and Larry Holt to the Human Relations Commission. These terms will expire June 30, 2006; and

To receive and accept applications to fill one Minority Male vacancy and one Non-Minority Male vacancy. These terms will expire June 30, 2006 was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council

May 19, 2003

Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: AMENDED GRANT AWARD - FEDERAL EMERGENCY
MANAGEMENT AGENCY – FIRE DEPARTMENT**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance to amend grant ordinance #12676 to reflect an additional award of \$40,000 from the Federal Emergency Management Agency for fire department incident software was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Ordinance # 12794

**SUBJECT: ENVIRONMENTAL ASSESSMENT PHASE II CONTRACT
AMENDMENT FOR BARNES AVENUE – ENGINEERING
CONSULTING SERVICES, LTD.**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a contract amendment with Engineering Consulting Services, Ltd. to increase the contract amount from \$10,000 to \$35,000; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN -- PICKETT PARK TOWNHOMES (D02-573)

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve a site plan for a proposed 51unit townhouse complex, consisting of nine one- and two-story buildings, with 114 motor vehicle parking spaces, and bicycle spaces provided within the units, on a +12.965 acre zoned PDR 3.94 was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: STOP SIGN - MAPLE RIDGE DRIVE

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance to authorize the installation of a stop sign on Maple Ridge Drive at Sanderson

May 19, 2003

Drive, northwest corner -Horton Hills was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Ordinance #12795

SUBJECT: ON-STREET PARKING – ENGLEWOOD AVENUE

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance to repeal ordinance #2891, adopted June 16, 1969, prohibiting parking on the north side of Englewood Avenue, in the area beginning at a point at the east curb line of Broad Street, if extended, and extending from that point east for a distance of 125 feet; and

To adopt an ordinance prohibiting parking at any time on the north side of Englewood Avenue in the area beginning at the east curb line of Broad Street, if extended, and extending for a distance of 150 feet eastward was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Ordinance #12796 - 12797

SUBJECT: SETTING A PUBLIC HEARING TO CONSIDER ORDERING IMPROVEMENT ON HUNT STREET

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a resolution setting a public hearing for June 2, 2003 to consider ordering the following improvement was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Curb, Gutter and Paving and Water and Sewer Laterals on Hunt Street - From Foster Street to Morris Street.

SUBJECT: STREET ACCEPTANCE – PAGEHURST, PHASE 3A

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to accept certain streets in Pagehurst, Phase 3A, as listed below for maintenance by the City of Durham was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Suda Drive – from the south curb line of Lumley Road south to the end of Phase 3A construction @STA 19+28.92 (909’); and

May 19, 2003

Bombay Drive – from the centerline of Suda Drive west then south to the centerline of Shiva Court (867’); and

Shiva Court – from the centerline of Suda Drive southwest thru the cul-de-sac (796); and

Om Court – from the centerline of Suda Drive west thru the cul-de-sac (158).

**SUBJECT: RESCINDING RESOLUTION ORDERING A CERTAIN LOCAL
IMPROVEMENT – SEWER MAIN ON ELLIS ROAD**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to rescind the resolution ordering the installation of a Sewer Main on Ellis Road from I.L. Buck Dean Freeway to Northeast Creek Outfall was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: CREDIT CARD USE POLICIES AND PROCEDURES

To receive a report on the City’s Credit Card Use Policies and Procedures.

Note: This item was moved to the 5-22-03 Work Session.

**SUBJECT: GRANT PROJECT ORDINANCE AMENDING ORDINANCE
12602 FOR WORKFORCE INVESTMENT ACT AND STATE
EMPLOYMENT FUNDS**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt the amended grant project ordinance #12602 to formally incorporate \$34,025 in additional State and Federal employment and training grant funds into the 2001-2002 City Employment and Training Budget for a new total of \$741,651 was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Ordinance #12798

**SUBJECT: GRANT PROJECT ORDINANCE AMENDING ORDINANCE
12604 FOR WORKFORCE INVESTMENT ACT FEDERAL
EMPLOYMENT FUNDS**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt the amended grant project ordinance to formally incorporate \$251,343 in additional

May 19, 2003

Federal Employment and Training grant funds into the 2002-2004 City Employment and Training Budget for a new total of \$1,107,136 was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Ordinance #12799

**SUBJECT: INTERLOCAL AGREEMENT WITH CHATHAM COUNTY FOR
SOLID WASTE PLANNING STUDY**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute an interlocal agreement with Chatham County for the cooperative cost sharing of a long-term solid waste planning study in which the City's share of the amount is \$3,500; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: GROUNDWATER MONITORING SERVICES FOR SANITARY
LANDFILL - WESTON SERVICES, INC.**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a contract with Weston Services, Inc. for groundwater monitoring services in the amount of \$61,600 per year; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: DELEGATION AUTHORITY TO IMPLEMENT THE NPDES
STORMWATER PERMIT**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager or her designee to act on behalf of the City concerning all applications or requests necessary for the implementation of the City of Durham's NPDES Stormwater Permit was approved at 8:16 p.m. by the following vote: Ayes:

May 19, 2003

Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: TRIANGLE REGION TRANSIT CONSOLIDATION PROJECT

To receive a presentation on the Triangle Region Transit Consolidation Project.

Note: A presentation was received at the 5-8-03 Work Session – No action was taken by the City Council at the May 19, 2003 City Council Meeting.

SUBJECT: NORTH CAROLINA MOVING AHEAD ACT

To receive a presentation on the North Carolina Moving Ahead Act.

Note: A report was received at the 5-8-03 Work Session – No action was taken by the City Council at the May 19, 2003 City Council Meeting.

SUBJECT: DUKE PARK NEIGHBORHOOD ASSOCIATION – BARRY RAGIN

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive comments from Barry Ragin on traffic calming and pedestrian safety measures in the Duke Park Neighborhood was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: DURHAM C.A.N. – SUSAN GILL

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive comments from Susan Gill to support the Agenda for Change by voting to put money in the City's budget was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: INTERIM EQUAL BUSINESS OPPORTUNITY PROGRAM

To adopt the Ordinance to Promote Equal Business Opportunities in City Contracting with the four changes recommended in the agenda memo dated May 2, 2003.

*Note: This item was approved at the 5-8-03 Work Session with a vote of 4/1. Council Member Best voted no on this item. **Ordinance #12793***

May 19, 2003

**SUBJECT: SETTING THE DATE FOR THE PUBLIC HEARING ON THE
PROPOSED FY 2003-04 BUDGET**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to set June 2, 2003 as the date for the Public Hearing on the Proposed FY 2003-04 Budget was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: BARNES AVENUE AREA PROPOSED REDEVELOPMENT PLAN

To authorize the City Manager to advertise for the Barnes Avenue Redevelopment Plan hearing at the first available City Council Meeting after the Planning Committee takes action.

Note: This item was approved at the 5-8-03 Work Session with a vote of 5/0.

**SUBJECT: WORKFORCE INVESTMENT ACT AMENDMENTS –
EMPLOYMENT SECURITY COMMISSION**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute the amendment to contract for Dislocated Worker Program with the Employment Security Commission to extend the contract date from June 30, 2003 to December 30, 2003 and to add \$191,400 to the contract amount; and

To authorize the City Manager to execute the amendment to contract for Adult Programs with the Employment Security Commission to extend the contract date from June 30, 2003 to December 30, 2003 and to add \$49,800 to the contract amount; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: CANCELLATION OF REGULAR WORK SESSION MEETING
AND REGULAR CITY COUNCIL MEETING**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance cancelling the Regular City Council Work Session and the Regular City Council Meeting for July 10, 2003 and July 21, 2003 was approved at 8:16 p.m. by the

May 19, 2003

following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Ordinance #12800

[ITEMS PULLED FROM CONSENT AGENDA]

SUBJECT: CONTRACTS

Mayor Pro Tempore Cheek requested that the last three contracts on the list for Rochelle Construction be referred to the May 22, 2003 City Council Work Session.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute the list of contracts; **[with the exception of Rochelle Construction CT #'s 074767; 074736; and 074768 to be referred to the May 22, 2003 City Council Work Session];** and

To authorize the City Manager to make changes to the list of contracts before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contract was approved at 8:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Contractor	Contract Description	Dept	CT Amount
Historic Preservation Society of Durham	Contract Amendment-extending expiration date	Planning	na
Verizon Wireless	CDPD Service for tracking field service vehicles	Finance	\$ 2,880.30
Environmental Investigations	Lead Paint Testing Recreation Centers	PFM	\$ 6,680.00
Matrix Health & Safety Consultants	Asbestos Inspection cooling tower City Hall	PFM	\$ 975.00
Institute of Police Technology	Training advanced Gang Investigations	Police	\$ 8,000.00
Matrix Health & Safety Consultants	Asbestos Inspection Planning Bldg	PFM	\$ 675.00
Gary Thompson	Sports Official	P&R	\$ 1,000.00
Philip Shaw	Athletic Instructor	P&R	\$ 360.00
Jerome Stevens	Sports Official	P&R	\$ 500.00
Anthony Pugh	Sports Official	P&R	\$ 1,000.00
Andrew Griffin	Official	P&R	\$ 1,200.00
Joe Robinson	Summer Concert Series	P&R	\$ 700.00
Christopher Ross	Summer Camp Martial Arts Instruction	P&R	\$ 1,400.00
Tamara Ramos	Spanish Instruction Summer Camp	P&R	\$ 2,000.00

May 19, 2003

Ayesha Riaz	Computer Instruction Summer Camp	P&R	\$ 1,400.00
Ayesha Riaz	Computer Instruction Summer Camp	P&R	\$ 2,000.00
Alice Mba	Enrichment Instruction	P&R	\$ 1,575.00
Roderick Allen	Summer Concert Series	P&R	\$ 1,200.00
Gregory Jackson	Sports Official	P&R	\$ 1,200.00
Jeff Garland	Summer Concert Series	P&R	\$ 550.00
Barry Stanback	Sports Official	P&R	\$ 650.00
Nijetta Patterson	Sports Official	P&R	\$ 600.00
Eric Smith	Official	P&R	\$ 800.00
Anthony McClain	Official	P&R	\$ 800.00
Timothy Pittman	Official	P&R	\$ 800.00
Accie Caldwell	Official	P&R	\$ 600.00
Rochelle Construction	Emergency Repair-2742 Marlin Ave	Housing	\$ 1,200.00
Paul Parker Home Improvements	Rehab-1110 Moreland Ave	Housing	\$ 7,765.00

SUBJECT: SUBSIDIZED HOUSING LOCATION POLICY

Melvin Whitley, of 2614 Harvard Avenue, thanked staff, the community and everyone involved in coming up the Subsidized Housing Location Policy.

MOTION by Council Member Stith seconded by Council Member Edwards to authorize the City Manager to approve the Subsidized Housing Location Policy was approved at 8:20 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

CITY OF DURHAM
SUBSIDIZED HOUSING LOCATION POLICY

STATEMENT OF POLICY

Opportunities for affordable housing should be available to residents throughout the City of Durham. To that end, the City shall utilize criteria designed to evaluate the dispersal of conditions of poverty as well as of subsidized housing throughout the City in the review of proposals for locating Subsidized Housing.

While the application of the Subsidized Housing Location Policy (referred to throughout as “the Policy”) is intended to be advisory to the City Council, with the Council reserving the prerogative to consider each proposal for Subsidized Housing on its merits, as a general rule the City will not support proposals for Subsidized Housing that are inconsistent with the locational criteria established herein.

DEFINITIONS

Community Development Block Grants (CDBG): The federal grant program designed to act as a catalyst in leveraging private dollars with public assistance to further the capacity of private and public developers to provide affordable housing opportunities. CDBG provides eligible metropolitan cities and urban counties (called "entitlement communities") with annual direct grants that they can use to revitalize neighborhoods, expand affordable housing and economic opportunities, and/or improve community facilities and services, principally to benefit low- and moderate-income persons.

Elderly Housing: Housing units intended for and solely occupied by persons 62 years of age or older or, an elderly family whose head or spouse is 62 years of age or older.

Focus Areas: Communities or neighborhoods with adopted redevelopment or revitalization plans or publicly funded revitalization initiatives. Projects and programs in these areas are typically funded through the Community Development Block Grant Program (CDBG), housing bonds issued by the City of Durham, tax credits allocated by the North Carolina Housing Finance Agency, bonds issued by the Durham Housing Authority and/or HOPE VI to achieve community revitalization goals.

Group Home: A dwelling operated under State regulations that provides room and board for more than six individuals who, as a result of age, illness, handicap or some specialized program, require personalized services or a supervised living arrangement in order to assure their safety and comfort. All group home facilities must be regulated by the State of North Carolina.

Home Ownership Opportunities: Housing units designed, constructed, and/or marketed for direct sale to owner-occupants. Developments or housing units in this category shall include, but not be limited to, those funded by governmental entities and programs, non-profit corporations and groups, public or private lending institutions, and public housing agencies. "Sweat equity" programs are also included in this category.

Low-Income Household: A household earning 80 percent or less of the median household income for Durham County.

Low-Income Housing Tax Credit Program (LIHTC): The Low Income Housing Tax Credit (LIHTC or Tax Credit) program was created by the Tax Reform Act of 1986 as an alternate method of funding housing for low- and moderate-income households. In 2003, each state receives a tax credit of \$1.75 per person that can be allocated towards funding housing that meets program guidelines. The program was recently changed to allow the allocation to be adjusted for inflation. Tax credits are used to leverage private capital into new construction or acquisition and rehabilitation of affordable housing. LIHTC in North Carolina is administered by NCHFA.

Rental Housing: Developments or housing units designed, constructed, and marketed for tenant (renter) occupancy. Developments or housing units in this category shall

May 19, 2003

include, but not be limited to, those funded by governmental entities and programs, non-profit corporations and groups, public or private lending institutions, and public housing agencies.

Section 8 Existing Rental Assistance: A Federal program that provides direct rental assistance in the form of vouchers or certificates to low-income families who are unable to afford market-rate rents.

Special Needs Housing: Shelter for persons with physical and mental disabilities, such as severe mental illness, developmental disabilities, alcohol and drug addiction, physical disabilities, HIV/AIDS, or the frail elderly. This type of housing may include single-family homes, apartments for independent living, shared apartment living, single room occupancy (SRO) housing, group homes, and transitional housing.

Subsidized Housing: Any housing development(s) or housing unit(s) intended to provide shelter for low-income households, the elderly and/or other special needs populations, that is funded wholly or in part by HUD, the North Carolina Housing Finance Agency (NCHFA), Durham County, the City of Durham or the Durham Housing Authority (DHA). The source of funding, for purposes of this policy, can include grants, loans, tax credits or tax exempt bonds (See Map 1 for the location of identified subsidized housing developments.)

Temporary Assistance for Needy Families (TANF): Assistance and work opportunities provided by the United States Department of Health and Human Services to needy families by granting states federal funds and wide flexibility to develop and implement their own welfare programs. This program replaces the former Aid to Families with Dependent Children (AFDC) and Job Opportunities and Basic Skills Training (JOBS) programs, ending the federal entitlement to assistance.

Transitional Housing: Temporary housing provided for homeless individuals or families.

REVIEW PROCEDURES

The Housing and Community Development Department (HCD) and the City/County Planning Department shall be jointly responsible for the review of Subsidized Housing proposals, including proposals for the renovation, rehabilitation or replacement of existing Subsidized Housing.

Proposals for Subsidized Housing seeking City support that are submitted to HCD shall be forwarded to the Planning Department for a review of compliance with the Policy, employing the methodology identified below. The Planning Department shall provide HCD with a report of its findings regarding consistency with the criteria established herein for HCD's use in preparing any documents related to City support for the proposed Subsidized Housing project.

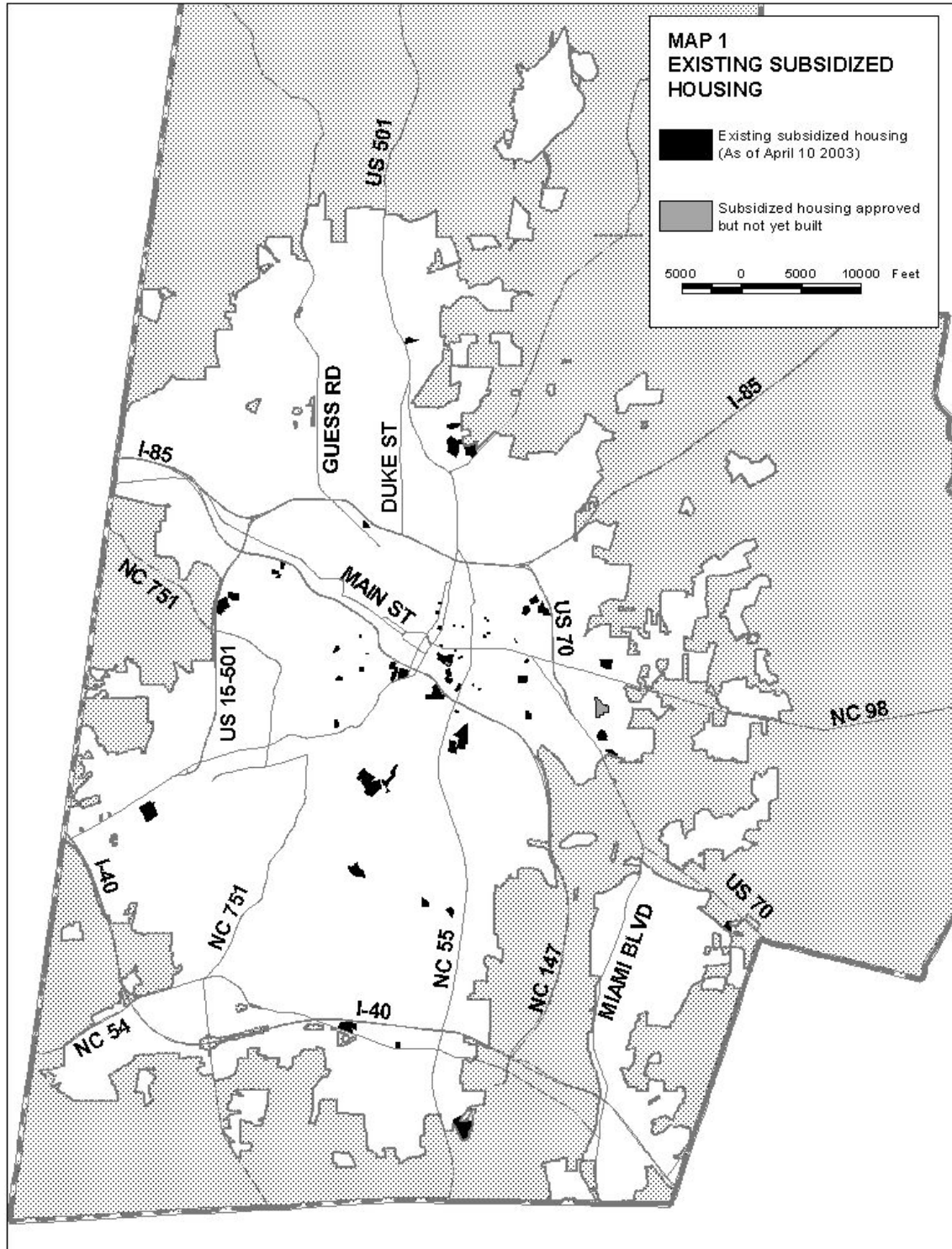
REVIEW CRITERIA

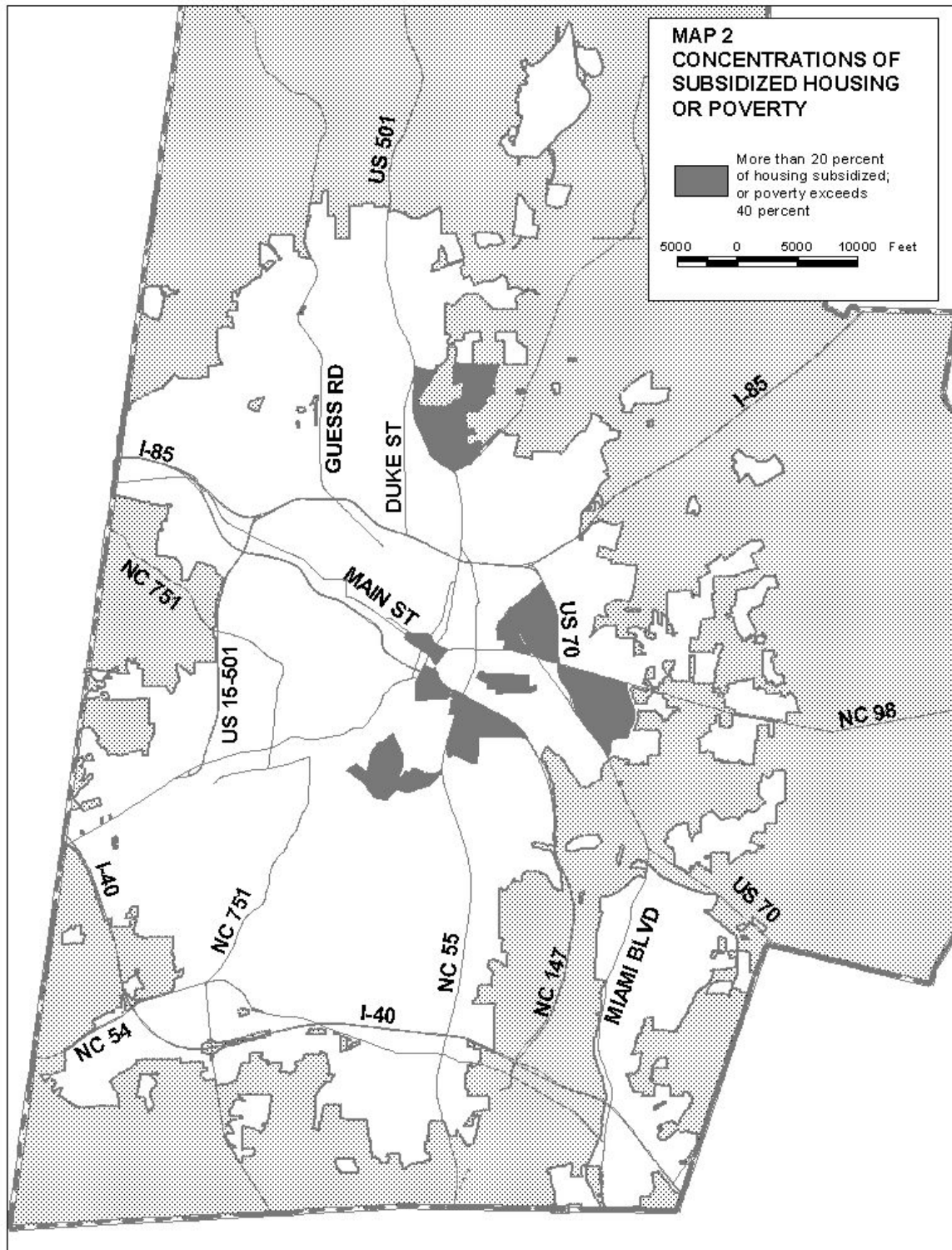
A multi-step process shall be employed in determining if Subsidized Housing projects are consistent with the Policy. As part of this process, the Planning Department shall maintain a database and corresponding map identifying the location of all Subsidized Housing developments in the City (Map 1 indicates the location of the identified projects; Appendix A indicates the current database of subsidized developments). This process first shall consider whether the proposed Subsidized Housing project is exempt from the Policy as a result of complying with the established exemptions.

Any project determined not to be exempt from the application of the Policy will initially be evaluated to ensure that there is not a concentration of either poverty or Subsidized Housing in the census-designated block group where the development is proposed to be located. Concentrations of poverty are based upon statistical analysis considering the citywide concentration of poverty and identifying those areas of the City where the concentration is greater than would be anticipated if poverty was dispersed throughout the City. If the most recent census indicates that the concentration of poverty within any block group exceeds 40 percent, the proposed Subsidized Housing development shall be determined to be in violation of this policy. Concentrations of Subsidized Housing are determined by the ratio of Subsidized Housing units to the total number of housing units, based on the database of Subsidized Housing units maintained by the Planning Department. If the concentration of housing units in subsidized developments in any block group exceeds 20 percent in the Urban Core or Central City, or 25 percent in the Outer City, the proposed Subsidized Housing development shall be determined to be in violation of this policy. Map 2 indicates all census block groups that have either a concentration of poverty or of Subsidized Housing units, where the City should not support additional subsidized developments. Map 3 defines the boundaries of the Urban Core, Central City and Outer City.

Any project that passes this review shall be subject to a final review, considering the concentration of Subsidized Housing in a broader area than the immediate block group where the project is proposed to be located. In this final review, the Planning Department shall employ the Evaluation Areas shown on Map 3. The Evaluation Areas represent three distinct areas of the City (as defined by census block groups) where different parameters for evaluating concentrations of Subsidized Housing shall be applied. The following criteria shall be applied within each Evaluation Area:

May 19, 2003

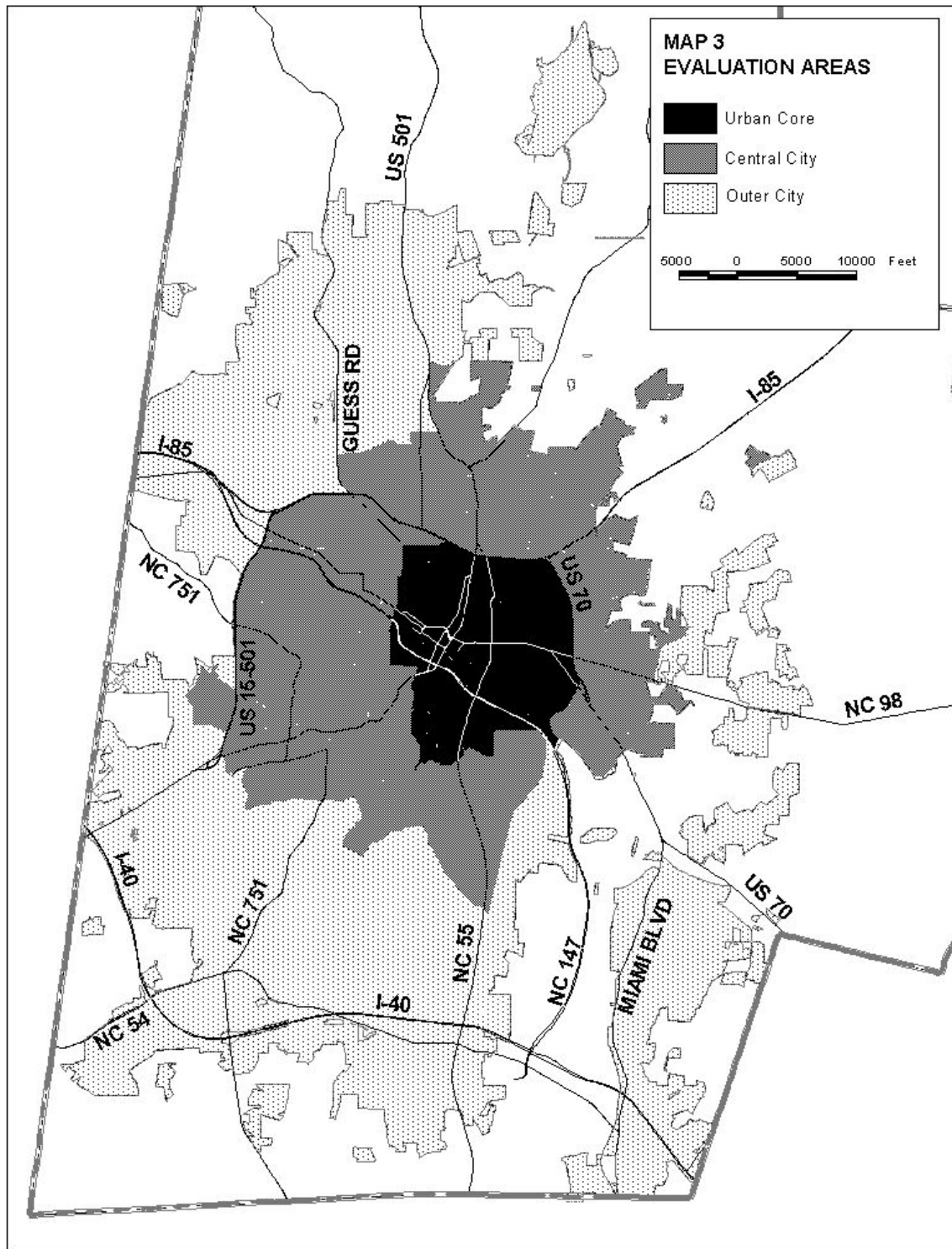




- a. **Outer City:** Areas that are continuing to experience growth in population and housing units; generally in a suburban pattern in relatively close proximity to retail and office development. Within this area, the maximum concentration of Subsidized Housing units, determined by the number existing and proposed Subsidized Housing within a 0.5 mile radius of the proposed project divided by the total number of housing units within the defined radius, should not exceed 25 percent. Existing units that are exempt from the location criteria shall be excluded from the calculation.
- b. **Central City:** Areas that meet some of the criteria of the outer city, but may lack suitable parcels for new housing developments. Within this area, the maximum concentration of Subsidized Housing units, determined by the number existing and proposed Subsidized Housing within a 0.5 mile radius of the proposed project divided by the total number of housing units within the defined radius, should not exceed 20 percent. Existing units that are exempt from the location criteria shall be excluded from the calculation.
- c. **Urban Core:** Areas with significantly higher concentrations of existing Subsidized Housing developments/units; or a lack of suitable parcels for new housing developments. Within this area, the maximum concentration of Subsidized Housing units, determined by the number existing and proposed Subsidized Housing within a 0.25 mile radius of the proposed project divided by the total number of housing units within the defined radius, should not exceed 20 percent. Existing units that are exempt from the location criteria shall be excluded from the calculation.

The following table summarizes the criteria to be applied within each Evaluation Area.

Summary of Evaluation Area Criteria		
Evaluation Area	Evaluation Radius (Radius in miles)	Maximum Concentration
Outer City	0.50	25 percent
Central City	0.50	20 percent
Urban Core	0.25	20 percent



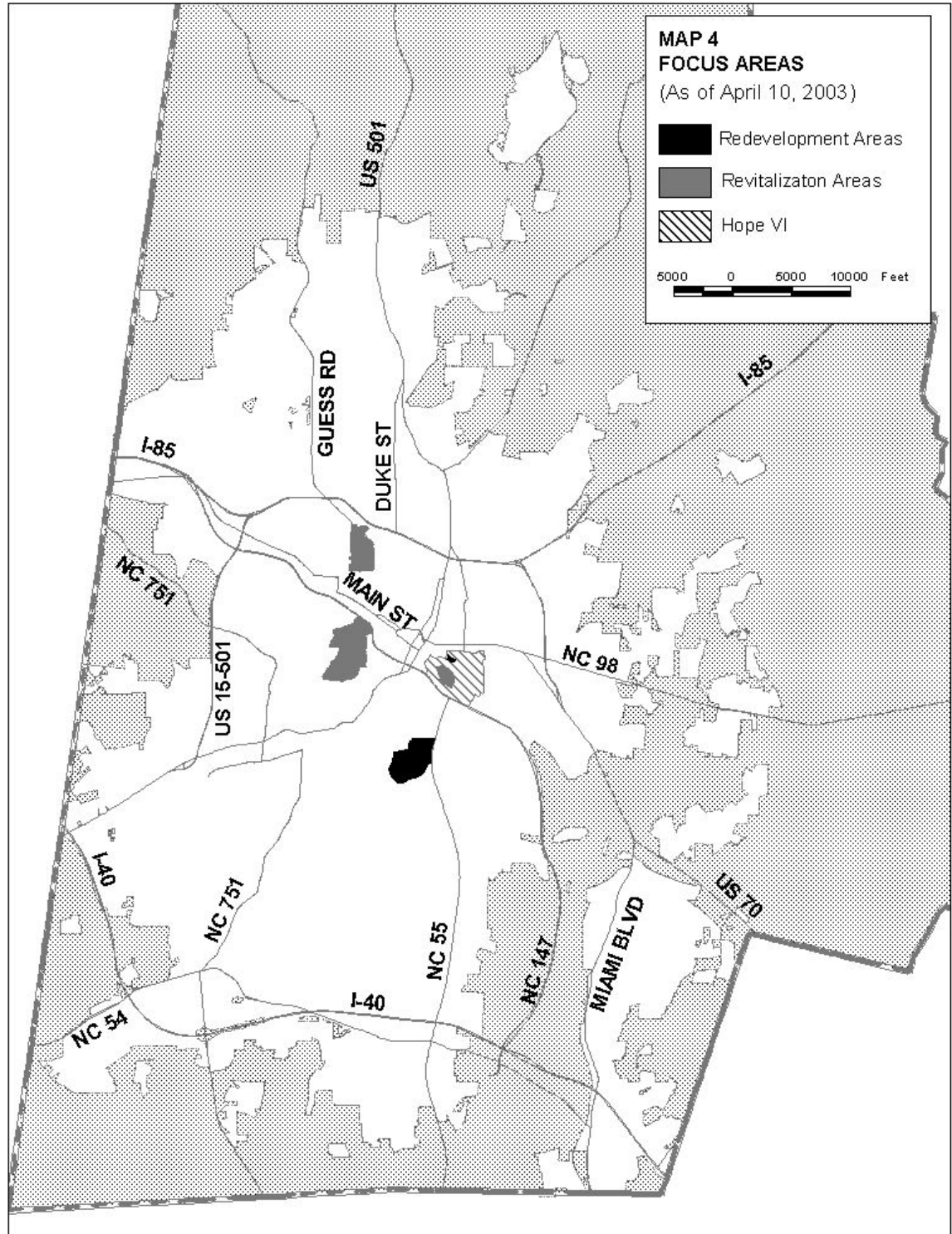
Unless expressly exempted below, new federally subsidized (Public Housing Agency) multi-family developments should not exceed 50 units per site regardless of the Evaluation Area in which they are proposed to be located.

EXEMPTIONS

Proposed Subsidized Housing that meet any of the following criteria shall be exempt from the location guidelines of this Policy:

- a. Rental housing proposals with four (4) or fewer units.
- b. Home-ownership proposals of fewer than 100 single-family detached housing units.
- c. Home-ownership proposals with 12 or fewer condominiums or other attached dwelling units.
- d. Group homes, shelters, and homes for persons with special needs that have an occupant capacity of no more than 24 individuals.
- e. Elderly housing with 60 or fewer dwelling units.
- f. Renovation, rehabilitation and/or replacement of existing dwellings. The total number of units in a replacement housing development shall not exceed the total number of units in the development prior to the replacement program. When replacement housing is being located on a different site the total number of subsidized units shall not exceed 50 units.
- g. Housing assistance provided directly to owner-occupants or tenants, and is not reflected in rent, income or purchase price limits that are attached to the home or land (such as down payment assistance, second mortgages, mortgage tax credits, Section 8 or other rental assistance, or TANF).
- h. Dwellings to be built in compliance with a city-approved plan for a "Redevelopment Area" consistent with the provisions of the North Carolina Redevelopment Law (Article 22), a "Neighborhood Revitalization Area," or a City-approved application for the HOPE VI program. Development proposals in these Focus Areas must be implemented in accordance with the plan approved by the City Council for these areas. As an example, Map 4 indicates the geographic areas covered by any of these Focus Areas.

May 19, 2003



RECOMMENDATIONS FOR ADDITIONAL WORK

No policy is static. As circumstances change or additional information is gathered, the data and assumptions underlying the Policy may change. Accordingly, the following recommendations should be directed as a part of this policy.

1. During the development of the Subsidized Housing Location Policy, residents expressed concern that the Policy might be ignored or forgotten over time. To address this concern and to increase the visibility of the Policy within the City's guidelines for its growth and development, the Policy should be reinforced and supported in the Durham Comprehensive Plan. The Policy should be presented to the Comprehensive Plan Steering Committee for incorporation as part of the Housing Element of the Comprehensive Plan.
2. The data that much of the Subsidized Housing Location Policy is based are changeable. Every housing development (whether subsidized or not) will impact the concentrations of subsidized units in the City. Accordingly, the databases on the locations and number of housing units by block group, the locations of block groups with a concentration of Subsidized Housing, and the locations of Focus Areas should be revised to reflect the best available data. These revisions should, at a minimum, be done annually.
3. During the public meetings on the Policy, some citizens expressed concern that the Policy restricted the provision of Subsidized Housing in some locations while providing no guidance to developers, agencies charged with Subsidized Housing provision, or citizens on suitable locations for future Subsidized Housing. These citizens felt that the Policy therefore appeared to restrict rather than encourage broader housing options. To address this concern, the City should look for opportunities to more proactively encourage affordable housing rather than simply restricting the location of Subsidized Housing. Among the actions that should be pursued are:
 - a. Revise the Affordable Housing Density Bonus provisions of the Zoning Ordinance (Section 8.1.28). As written, the provisions only provide for an increase in density with no provisions for a corresponding reduction in lot size. While revisions should be minimal, the entire section should be reviewed to ascertain what other changes that might make the bonus option more attractive to developers.
 - b. Clarify the City's ability to pursue inclusionary zoning. The City's Charter currently provides the City with the ability to offer incentives to developers who voluntarily commit to providing affordable housing (Section 94.2). It is not clear that the City has the ability to require the provision of affordable housing in any

May 19, 2003

development with a residential component. Legislation clarifying the charter provisions in this regard should be pursued.

4. The Subsidized Housing Location Policy should be reevaluated periodically to ensure that it has met the purpose that was intended and that its application has not discouraged the provision of an adequate supply of decent, safe, affordable housing for Durham's neediest and most vulnerable citizens. At least every five years, the City Council should be given a report on the effectiveness of the Policy.

SUBJECT: RESOLUTION EXPRESSING THE SUPPORT OF THE DURHAM CITY COUNCIL TO THE CRIME CABINET'S RECOMMENDATIONS

LaVonnia Allison, representing the DCAP, spoke in opposition to this item noting most of the items listed in the resolution address the issue of increased incarceration and nothing pertaining to prevention and drug treatment.

Council Member Edwards expressed a concern with this resolution noting there needs to be more services provided to rehabilitate persons.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a "Resolution Expressing the Support of the Durham City Council to the Crime Cabinet's Recommendations" was approved at 8:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: Council Member Edwards. Absent: None.

Resolution # 9002

[GENERAL BUSINESS AGENDA-PUBLIC HEARINGS]

SUBJECT: REZONING MATTER CASE P02-55 – BELVINS PROPERTY – THE JOHN R. MCADAMS COMPANY, INC. – SOUTHEAST AND SOUTHWEST CORNERS OF THE INTERSECTION OF HEBRON ROAD AND DANUBE LANE

To receive public comments on rezoning Case P02-55 (Belvins Property), and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-55 out of R-20; F/J-B and placing same in and establishing same as PDR-5.4; F/J-B.

Planning Department Recommendation: Approval

May 19, 2003

Zoning Committee Recommendation and Vote: Denial – (5-1)

[Valid protest petition filed against this rezoning]

Frank Duke, City/County Planning Director, briefed Council on the staff report. He highlighted proposal is consistent with the North Durham Plan and gave an overview of committed elements and required roadway improvements. He noted staff recommends approval and the Zoning Committee denied this request based on density, school impacts and mass grading concerns.

Mayor Bell asked the Planning Director if there has been any further discussion with the school system regarding the impact rezonings will have on schools.

Frank Duke, City/County Planning Director, noted a policy has been recommended by the Joint City/County Planning Committee to be discussed at the Zoning Committee Meeting in June and will come back to the City Council and County Commissioners in August for discussion.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Proponent

Attorney Jack Markham, representing the applicant, urged Council to defer this item until August 18, 2003 City Council Meeting in light of protest petition.

Opponents

LaVonnia Allison, of 1315 McLaurin Avenue, spoke in opposition to this rezoning citing increased density concerns.

Mike Spears, of 1212 Red Oak Avenue, spoke in opposition to this rezoning proposal expressing school impact, grading and no transit service in the area. Also, he urged Council to deny this request and save the quality of the neighborhood.

Carolyn Ingram Thornton, representing estate of Mrs. B. H. Ingram, spoke in opposition to this item due to density, school overcrowding and the impact on the quality of life.

Maxine Mason, of 4909 Fox Hunt Street, spoke in opposition to this request urging Council to keep the current zoning of R-20.

Rebuttal

Attorney Jack Markham, representing the applicant, made comments about the number of homes and the meeting with Hill View Terrace neighborhood. Also, he requested a 90-day deferral.

May 19, 2003

Council Member Cole Mc-Fadden asked staff how will traffic be accommodated that will be generated at Denfield Street and Roxboro.

Wesley Parham, of the Transportation Department, made comments about the TIA noting the left turn is inadequate and should be extended an additional 150 feet and staff recommends that this be a committed element of this plan.

Council Member Cole-McFadden noted something needs to be done in that area; therefore, she cannot support this rezoning.

Council Member Stith asked the applicant if a 90-day deferral is granted will key issues [density, transportation [extension of a 50 feet turn lane by an additional 150 feet as a committed element] be addressed.

Attorney Jack Markham, representing the applicant, noted the applicant will take a look at the issues.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Clement to continue the public hearing without further advertising on this rezoning case to the August 18, 2003 City Council Meeting was approved at 8:50 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: AMERICAN TOBACCO PROJECT – CERTIFICATES OF PARTICIPATION

To receive public comments concerning the execution and delivery by the City of an installment purchase contract in a principal amount not to exceed \$14,000,000; and

To adopt a resolution authorizing the execution, delivery and sale of certificates of participation, Series 2003 in an installment purchase contract between New Durham Corporation and the City of Durham in an aggregate principal amount not to exceed \$14,000,000; and approving the form and substance, and authorizing the execution and delivery of certain documents and instruments necessary to carry out the financing.

Ken Pennoyer, Acting Finance Director, requested that that this item be deferred to the June 16, 2003 City Council Meeting.

MOTION by Council Member Clement seconded by Council Member Stith to defer this item to the June 16, 2003 City Council Meeting [public hearing was not opened] was approved at 8:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

May 19, 2003

There being no further business to come before the City Council, the meeting was adjourned at 8:52 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk